

Decision 04-05-014 May 6, 2004

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Maclyn Erickson,

Complainant,

vs.

Southern California Edison Company,

Defendant.

(ECP)

Case 03-09-017

(Filed September 9, 2003)

OPINION GRANTING RELIEF

Summary

Maclyn Erickson (Complainant) seeks an adjustment from Southern California Edison Company (SCE) for her electric bills rendered during the year 2000. She contends that the meter in place during the period in dispute was not operating correctly because her usage returned to normal after the meter was replaced. SCE concurs that consumption was lower after the meter was replaced, but suggests that only Complainant can explain why the usage was lower.

We grant Complainant's request for relief because there is evidence in the record that Complainant was improperly billed.

Procedural Summary

An evidentiary hearing under the Commission's expedited complaint procedure (Rule 13.2 of the Commission's Rules of Practice and Procedure) was held on October 28, 2003, in San Luis Obispo. On November 7, 2003, SCE

provided a summary of its position. Complainant replied and the matter was submitted for decision on January 8, 2004.

The Facts

Complainant resided in a single family dwelling in Palm Desert from April 1991 to August 2001. The dwelling had a swimming pool, air conditioning, washing machine, electric dryer, and two refrigerators with one of the refrigerators located outside. In January 2001, Complainant questioned her bills for the year 2000 and also requested that the meter be changed. The meter was tested and proved to be registering correctly according to SCE standards in Tariff Rule 17, Adjustment of Bills and Meter Tests Attachments I and II. However, at the request of Complainant, the meter was replaced on February 9, 2001. After the meter was replaced, the recorded consumption dropped.

Positions of the Parties

Complainant states that since 1995 she has had few visitors, and her pattern of living has not changed since then. She became concerned when she noticed an unaccountable increase in her electric usage for the year 2000. She had her pool service person inspect her pool equipment, an electrical contractor inspect the electrical system, and a maintenance service person inspect the other equipment in her house. She provided affidavits from these persons stating that all her equipment was in good working order. She contends that she has been overcharged for 14 months beginning in the year 2000, and such overcharges were not caused by inefficient appliances and was not the result of excessive use of electricity. She questions the infallibility of the meter and why the utility company is not required to have its equipment tested by a neutral third party. She contends that the burden of proof falls on SCE to explain 14 months of unusual readings, which reverted to lower levels once the new meter was

installed. She estimates she was overcharged \$1,400 and spent an additional \$3,600 on phone calls, letters, documentation, and automobile trips for a total of \$5,000, in her efforts to have the alleged overcharges corrected.

SCE analyzed the recorded ambient temperature data for the area and the number of days temperatures were over 100 degrees for the years 1999 through September 2001. According to SCE, overall, it does not appear that temperatures in the year 2000 directly caused Complainant's bills to be higher than the bills generated in the year 1999. Also, SCE notes that rate increases had no impact on Complainant's bills from 1999 to 2000 because rates were frozen from June 1, 1996 to January 4, 2001, and the rates used to bill the account in 1999 were the same rates used in the year 2000. SCE also performed a Connected Load Study which indicated that Complainant had the potential connected load to have used the amount of electricity for which she was billed. According to SCE, since the meter was tested and found to be operating within prescribed limits, and Complainant has the potential load to have used the electricity for which she has been billed, the presumption exists that Complainant has used the electricity shown as used by the meter.

Discussion

The record in this proceeding shows that SCE took a number of steps to investigate the higher than normal usage. SCE found no malfunctioning equipment, analyzed the potential load at the residence, and determined that the meter met test requirements for accuracy. SCE is not able to pinpoint the actual cause of the higher than normal usage, except to speculate that the pool equipment may have caused the increased bills.

We reject Complainant's argument that the burden of proof is on SCE to explain the higher than normal usage for the 14 months at issue. Expecting SCE to determine the amount of energy used as well as the manner in which it was

used would require an unacceptable intrusion into the lives of SCE's customers, and would also invite manipulation by customers, who can control their usage to some degree while it is being monitored.

We also reject Complainant's argument that SCE's equipment should have been tested by a neutral third party. SCE's tariffs provide that the customer may witness the meter test. If the customer wanted third-party testing, that request should have been made before or at the time the test took place, and would have been at the customer's expense. A copy of SCE's meter test results was provided for the record, and it shows that the meter tested within the limits prescribed by the Commission. The meter was actually operating "slow," in favor of the customer. However, given the dispute at hand, SCE should have retained the meter for possible later independent testing.

Given that both SCE and Complainant provide countervailing evidence that supports their positions, we turn to the key evidence in the case: the fact that Complainant's usage levels decreased to historic levels after the replacement of the meter. SCE offers nothing except speculation as to why usage levels increased before the meter change, and no plausible explanation for why usage decreased afterwards. A reasonable conclusion is that, despite SCE's meter test, the meter may have been inaccurate.

The alleged overcharge amounts to \$1,022. Therefore, we order SCE to refund \$1,022 to Complainant. Complainant's out-of-pocket expenses will not be reimbursed since the Commission does not award damages. Today's decision does not set a precedent for such cases.

Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Bertram D. Patrick is the assigned Administrative Law Judge in this proceeding.

O R D E R

IT IS ORDERED that:

1. The complaint of Maclyn Erickson is granted. Southern California Edison Company is ordered to refund \$1,022 to her.
2. This proceeding is closed.

This order is effective today.

Dated May 6, 2004, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners